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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/566,533	01/30/2006	Osamu Moriura	F-8984	5842

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EXAMINER	
MCCLELLAND, KIMBERLY KEIL	
ART UNIT	PAPER NUMBER
1791	
MAIL DATE	DELIVERY MODE
11/23/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/566,533	MORIURA ET AL.	
	Examiner	Art Unit	
	KIMBERLY K. MCCLELLAND	1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *09/04/09*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-2, 4-5, 15, 17, and 19* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-2, 4-5, 15, 17, and 19* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *30 January 2006* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 08/24/09 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-2, 4-5, 15, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,925,439 to Haubach in view of U.S. Patent No. 4,851,069 to Packard et al.

4. With respect to claim 1, Haubach discloses a method of forming an absorbent product, including shifting the base sheet (6) being held on a receiving and transferring roller face (12); supplying powder particles (8) to a concave groove of a temporary receiving roller face (11) to form the powder particle layer; transferring the powder

particle layer (8) onto the base sheet while shifting the powder particle layer held on the temporary receiving roller face (11); and bonding the base sheet (6), the powder particle layer (8) and the covering sheet (9) into an integral form, sheet while shifting the covering sheet in a held state on a contact-bond fixing roller face (See Figure 3). Haubach does not specifically disclose a shifting speed of the powder particle layer is made slower than respective speeds of the base sheet and the covering sheet.

5. Packard et al. discloses a process of making absorbent laminates, including it is known in the art that the deposition speed of the absorbent particles is a result effective variable, which controls the amount of powdered absorbent particles deposited on the substrate (column 8, lines 14-24). It would have been obvious to one of ordinary skill in the art to use a slower powdered particle feed rate as compared to the base sheet and cover sheet speeds as taught by Packard et al. in the method of Haubach. The motivation would have been to reduce the amount of absorbent particle applied in the absorbent laminate.

6. As to claim 2, Haubach discloses the process for transferring the powder particle layer (8) onto the base sheet (6), includes shifting the powder particle layer being shifted in the same direction as the base sheet (See Figure 3).

7. As to claim 4, Haubach discloses the process for transferring the powder particle layer onto the base sheet and the process for bonding the covering sheet are carried out on a same roller face (12/ See Figure 3).

8. As to claim 5, Haubach discloses the powder particle layer is constituted by an absorbent resin particle layer (column 1, lines 48-50).

9. As to claim 15, Haubach discloses the sheet-shaped body manufactured by the manufacturing method according to claim 5 (6/8/9) is sandwiched between a liquid-permeable top sheet (3/4) and a liquid- impermeable back sheet (2) to be bonded into an integral form so that the disposable absorbent article is produced (see Figure 1).

10. As to claim 17, Haubach discloses the process for transferring the powder particle layer onto the base sheet and the process for bonding the covering sheet are carried out on the receiving and transferring roller face (12; See Figure 3).

11. Claims 1-2, 5, 15, 17, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,994,053 to Lang in view of U.S. Patent No. 4,851,069 to Packard et al.

12. With respect to claim 1, Lang discloses a method of forming a composite article device, including shifting the base sheet (12) being held on a receiving and transferring roller face (190); supplying powder particles to a concave groove of the temporary receiving roller face (14) to form the powder particle layer; transferring the powder particle layer (84) onto the base sheet while shifting the powder particle layer held on a temporary receiving roller face (14); and bonding the base sheet (12), the powder particle layer (84) and the covering sheet (20/170) into an integral form, sheet while shifting the covering sheet in a held state on a contact-bond fixing roller face (See Figures 1, 5, 13, and 14). Lang does not specifically disclose a shifting speed of the powder particle layer is made slower than respective speeds of the base sheet and the covering sheet.

13. Packard et al. discloses a process of making absorbent laminates, including it is known in the art that the deposition speed of the absorbent particles is a result effective variable, which controls the amount of powdered absorbent particles deposited on the substrate (column 8, lines 14-24). It would have been obvious to one of ordinary skill in the art to use a slower powdered particle feed rate as compared to the base sheet and cover sheet speeds as taught by Packard et al. in the method of Lang. The motivation would have been to reduce the amount of absorbent particle applied in the absorbent laminate.

14. As to claim 2, Lang discloses the process for transferring the powder particle layer (84) onto the base sheet (12), includes shifting the powder particle layer being shifted in the same direction as the base sheet (See Figures 1 and 5).

15. As to claim 5, Lang discloses the powder particle layer is constituted by an absorbent resin particle layer (column 2, lines 45-47).

16. As to claim 17, Lang discloses the process for transferring the powder particle layer onto the base sheet and the process for bonding the covering sheet are carried out on the receiving and transferring roller face (14; See Figures 1 and 5).

17. As to claim 19, Lang discloses the process for transferring the powder particle layer onto the base sheet includes sealing an opening of the concave groove with a guide member (i.e. wiper blade) such that the resin particle layer is enclosed inside the concave groove (See Figures 1 and 5).

18. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,994,053 to Lang in view of U.S. Patent No. 4,851,069 to Packard et al. as applied to claims 1-2, 5, 15, and 17, and 19 above, and further in view of U.S. Patent No. 5,925,439 to Haubach.

19. With respect to claim 4, Lang does not specifically disclose the process for transferring the powder particle layer onto the base sheet and the process for bonding the covering sheet are carried out on a same roller face.

20. Haubach discloses a method of forming an absorbent product, including the process for transferring the powder particle layer onto the base sheet and the process for bonding the covering sheet are carried out on a same roller face (12/ See Figure 3). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the same roller face arrangement taught by Haubach with the method of Lang. The motivation would have been to ensure accurate alignment of the powder particles between the base sheet and the covering sheet.

21. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,925,439 to Haubach in view of U.S. Patent No. 4,851,069 to Packard et al. as applied to claims 1-2, 4-5, 15, and 17 above, and further in view of U.S. Patent No. 4,994,053 to Lang.

22. With respect to claim 19, Haubach does not specifically disclose the process for transferring the powder particle layer onto the base sheet includes sealing an opening

of the concave groove with a guide member such that the resin particle layer is enclosed inside the concave groove.

23. As to claim 19, Lang discloses a method of forming composite articles, including the process for transferring the powder particle layer onto the base sheet includes sealing an opening of the concave groove with a guide member (i.e. wiper blade) such that the resin particle layer is enclosed inside the concave groove (See Figures 1 and 5). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the guide member taught by Lang with the method of Haubach. The motivation would have been to secure the particles within the grooved roller during transportation.

Response to Arguments

24. Applicant's arguments with respect to claims 1-2, 4-5, 15, 17, and 19 have been considered but are moot in view of the new ground(s) of rejection. Applicant's remaining pertinent arguments are addressed below:

25. As to applicant's argument that Haubach teaches away from operation at differing speeds, examiner disagrees. Haubach does not specifically "criticize, discredit, or otherwise discourage the solution claimed. " In re Fulton, 391 F.3d 1195, 1201,73 USPQ2d 1141, 1146 (Fed. Cir. 2004)." As such, Packard's teaching of slowing the rate of particle application is found to render claim 16 obvious. Haubach's teaching of embossing rollers does not require the same speeds because there is no recitation of operation of the wheels at the same speed or the requirement to "properly mesh" as

suggested by applicant. Therefore, Haubach is not found to criticize, discredit, or otherwise discourage operation at differing speeds. See MPEP § 2145 X. D for a discussion as to references "teaching away" from a claimed invention.

26. With respect to applicant's argument that Packard does not disclose a particle layer, this argument is not persuasive. The term "layer" has a broader meaning than continuous, measurable thick sheet, and therefore the powder coating meets applicant's claimed "powder particle layer".

27. In response to applicant's argument that shifting particle speed to adjust the pattern of particles, the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See Ex parte Obiaya, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).

28. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See In re Keller, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); In re Merck & Co., 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

29. In response to applicant's argument that Packard does not anticipate the claimed method, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have

suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

30. Consequently, applicant's arguments are not persuasive.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KIMBERLY K. MCCLELLAND whose telephone number is (571)272-2372. The examiner can normally be reached on 8:00 a.m.-5 p.m. Mon-Thr.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Philip C. Tucker can be reached on (571)272-1095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kimberly K McClelland/

Examiner, Art Unit 1791

KKM

/Philip C Tucker/
Supervisory Patent Examiner, Art Unit 1791